

1 Dianne Philipps

2 of the percentage that drained into the Saddle
3 River, though; does it?

4 A. No.

5 Q. But it does indicate that it was
6 affected as a result of this dry weather event?

7 A. Yes.

8 Q. Turn to Bates Stamp Number 90. And
9 that is another memo from Gene Yetter to you
10 regarding sewage spills of January 18th, 2006.
11 Again, South Monsey Road is indicated. And the
12 fourth paragraph it says that -- it indicates,
13 again, that same manhole near Mr. Schneider's
14 house, 10019; correct?

15 A. Yes.

16 Q. And the overflow says subsided at
17 8:00 p.m.; right?

18 A. Yes.

19 Q. It was first reported at 11:30 a.m.?

20 A. Yes.

21 Q. So at least, according to your
22 report, it didn't subside until some seven
23 and-a-half hours later?

24 A. Yes.

25 Q. And it says that over that period

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2 that it didn't subside only a quan -- an
3 estimated quantity of less than 500 gallons of
4 dilute sewage was discharged and ponded in the
5 area and eventually seeped into the ground;
6 right?

7 A. Yes.

8 Q. On Bates Stamp Number 92, that shows
9 it's a cover letter from Administrative Secretary
10 Jean Langan.

11 She's with your office, I believe?

12 A. Yes.

13 Q. And she's writing it back to a
14 Brendal Logan?

15 A. Yes.

16 Q. In Pearl River?

17 A. Yes.

18 Q. And it attaches the spill reports
19 and sewer overflow charts from '96 through 2005;
20 right?

21 A. Yes.

22 Q. And if you begin on 94, Bates
23 Stamp 94, there's some handwritten notes there.

24 Do you know whose handwritten notes
25 those are?

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2 A. It looks like mine.

3 Q. Okay. So on 94, on this chart, it
4 says, total spills 22, but yet in the handwritten
5 notes it says four heavy rain events; right?

6 A. Yes.

7 Q. '97, total spills 11, and in your
8 handwriting it says, one heavy rain event?

9 MR. CAREY: Which page?

10 MR. BURKE: I'm sorry. Page 95.
11 Spills from '97.

12 A. Yes.

13 Q. Then in '98 you have listed 15
14 spills, zero in your handwriting of heavy rain
15 events?

16 A. Yes.

17 Q. '99, two, again in your handwriting,
18 two rain events, a total of 22 spills; right?

19 A. Yes.

20 Q. So 20 of those spills were in 1999
21 not as a result of a rain event --

22 A. That's not correct.

23 Q. -- from your --

24 Well, that's what your notes
25 indicate.

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2 A. Of these 22 spills, --

3 Q. Yes.

4 A. -- all of these listed here are --
5 are from a rain event.

6 Q. All these spills?

7 A. All these here were due to a rain
8 event.

9 Q. Where are we indicating? I'm sorry.

10 A. If you're counting the spills
11 there's one, two, three, four, five, six, seven,
12 eight, nine, 10, 11, 12, 13, 14, 15, 16.

13 What did I miss.

14 Q. Well, it says 22 on the bottom.

15 A. Well, some of these are different
16 locations. Okay. One, two, three, four, five,
17 six, seven, eight, nine, 10, 11, 12, 13, 14, 15,
18 16, 17, 18, 19, 20, 21, 22, 23.

19 I'd have to go through these in
20 detail to see which ones are --

21 Q. Okay.

22 A. All these separate different
23 locations are listed as a spill.

24 Q. Okay.

25 A. But they're all due to one event.

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2 One rain event.

3 Q. Which one are we talking about; the
4 one that's Hurricane Floyd?

5 A. Yes.

6 Q. They're all different spills, but
7 one rain event?

8 A. Different locations, one rain event.

9 Q. Okay. So all of those spills, even
10 though it says 22 spills, it may be more that
11 were caused by a significant rain event?

12 A. These were all the locations we were
13 overflowing during one rain event.

14 Q. Okay. Now, in this chart it doesn't
15 include the amount of gallons that were spilled;
16 right?

17 A. No.

18 Q. And it doesn't include the water
19 bodies that were affected; right?

20 A. No.

21 Q. The next page, spills in 2000.
22 There's nine spills. Zero rain events. And for
23 the spills in 2000 there are listed one, two,
24 three as a result of spills on July 25th, 2000
25 Saddle River Pump Station; right?

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2 A. Yes.

3 Q. And that was a hydraulic check valve
4 failed. So, again, equipment failure?

5 A. Yes.

6 Q. August 2000, August 16, 2000, Saddle
7 River Pump Station?

8 A. Yes.

9 Q. It says, lead in lag pumps failed on
10 high vibration due to debris collecting in pump.

11 And then, lastly, there's an entry
12 for December 6, 2000 Saddle River Pump Station.

13 Again, pump failure; right?

14 A. Yes.

15 Q. In 2001, it lists 16 spills. And,
16 again, in your handwriting it says two rain
17 events.

18 The entry -- it, again, includes
19 entries for the Saddle River Pump Station on
20 August 27th and March 30th where it attributes
21 pump failure; correct?

22 You see March 30th up top, the last
23 entry, says, Saddle River Pump Station, and then
24 next to the reason it says Saddle River Pump
25 Station pump failure?

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2 A. Might have been somewhat attributed
3 to wet weather though, because it was a wet
4 weather event.

5 Q. But it's still listed as the reason
6 as being pump failure; right?

7 A. Right.

8 Q. And this is a document created by
9 the Sewer District; correct?

10 A. Yes.

11 Q. And, again, the entry Saddle River
12 Pump Station in 2001 says, pump failure as well
13 for that spill; right? Again, an equipment --

14 A. Equipment failure. Check valves.

15 Q. 2002 total spills 11. Zero rain
16 events; right?

17 A. Correct.

18 Q. 2003, it says total spills 18. Four
19 listed rain events.

20 Now, as far as the -- we see in June
21 of 2003 Hillside Avenue, Monsey. That's, again,
22 near the Saddle River Pump Station; correct?

23 A. Yeah, Hillside Road is not that far
24 from Saddle River Pump Station.

25 Q. That intersects -- part of it starts

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2 in New Jersey and then finishes up, goes up to
3 the top of the Hillside, if you're familiar with
4 it, and ends in New York?

5 A. Yes.

6 Q. Heading I guess west to east; --

7 A. Yes.

8 Q. -- is that a fair statement?

9 A. Yes.

10 Q. That lists the June 9, 2003 Hillside
11 Avenue spill as a result of falling from the
12 casting contributed to the block and flow;
13 correct?

14 A. Odor control dish.

15 Q. Which had fallen from the casting,
16 the casting for a manhole?

17 A. Yes.

18 Q. Then the next entry as to South
19 Monsey Road is December 12th; right?

20 A. Yes.

21 Q. And then December 24th, another
22 entry for South Monsey Road; right?

23 A. Yes.

24 Q. And then, lastly, August 14, 2003,
25 Saddle River Pump Station; right?

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2 A. Yes.

3 Q. And that says, power outage.

4 Running on emergency generators. Overflowed due
5 to delay in pumping cycle when power switched
6 back to utility power.

7 A. Yes. That was very brief.

8 Q. How do you know? Doesn't tell you
9 the amount that was spilled?

10 A. I'm sure the spill report does.
11 It's not here.

12 Q. Okay. But you think that one would
13 have been very brief?

14 A. That would have been very brief.
15 That would have been just a matter of a minute or
16 something. Just a cycling issue.

17 Q. Document stamped 102 you have
18 listed, I guess it doesn't give us the town, it
19 says 15 spills.

20 Why do you break out Spring Valley,
21 by the way, on these charts?

22 A. I guess Spring Valley's another
23 situation where the Village of Spring Valley owns
24 the sewers, and we do the maintenance for them.

25 Q. But you don't have any spills listed

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2 as to --

3 Were there spills occurring in the
4 vicinity of New Square, or were those the Spring
5 Valley spills, or you can't tell?

6 A. The only spills in New Square are
7 due to blockages usually.

8 Q. Okay. Well, so where does the
9 overcapacity issue of New Square affect the sewer
10 lines?

11 A. Just south of New Square. The
12 interceptor -- the line comes out of New Square,
13 as soon as it comes out of New Square it becomes
14 our interceptor, and there's capacity issues in
15 sections of that interceptor.

16 Q. And that's the Ramapo Interceptor?

17 A. No. It's the North Pascack
18 Interceptor.

19 Q. Were there spills in that area, the
20 North Pascack Interceptor?

21 A. If there's no reports on it, no.

22 Q. What's the pumping station that
23 deals with that interceptor?

24 A. It's all gravity.

25 Q. It's all gravity?

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2 A. Yes.

3 Q. All right. Is that near any
4 tributaries or near any waterways?

5 A. I'm assuming somewhere in the
6 vicinity would be the Pascack Brook, but I -- I
7 would have to look at a map.

8 Q. The Pascack Brook that's next to the
9 BMW dealer on 59, is that near that gravity main,
10 or interceptor, I beg your pardon?

11 A. I'd have to look at a map. I don't
12 know that the Pascack Brook is near BMW. I
13 assume any storm drains would ultimately flow to
14 a nearby stream.

15 Q. Okay. Back to 101, Bates Stamp
16 Number 101. It has December 12, 2003 an entry
17 for a spill South Monsey Road, with a listed
18 reason, excessive rain, frozen ground and snow
19 melt?

20 A. Yes.

21 Q. And the 24th it -- did we already do
22 this page?

23 A. Yes.

24 Q. Spills for 2004, Page 102. The
25 first entry is September 18th, South Monsey Road,

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2 and, again, attributing factor is the extremely
3 heavy rain, 9/18/2004?

4 A. Yes.

5 Q. 10/3/04 Cherry Lane Airmont. It
6 says, blockage, tree branches. Do you know if
7 that was the same 50,000 gallon spill we were
8 talking about before?

9 A. No. I believe this was the Cherry
10 Lane interceptor in a day camp, but I'd have to
11 check the report.

12 Q. Is that the day camp that's right
13 near Lake Oratam?

14 A. I think the day camp is off of
15 Cherry Lane. I'm not exactly sure.

16 Q. Do you know where Lake Oratam is?

17 A. No.

18 Q. All right. So as you travel down
19 Cherry Lane, heading towards New Jersey, is this
20 camp on your left, by Christmas Hill Road?

21 A. Going 59, down towards New Jersey,
22 yes, I believe it's on the left.

23 Q. On the left. Okay. Almost right
24 before you enter into New Jersey, before you get
25 to the end of Cherry Lane and you get up into

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2 Saddle River, or Upper Saddle River, beg your
3 pardon?

4 A. I thought it was more towards where
5 the Village --

6 Q. Village of Airmont is?

7 A. The Town Hall, but I'm not sure.

8 Q. The new Town Hall we're talking
9 about?

10 A. Yes.

11 Q. And the old one I guess, for that
12 matter.

13 A. Well, --

14 Q. The Valentine House?

15 A. I'm not thinking it's that close.
16 It's not like right on the New Jersey border or
17 anything, but I think it's further up Cherry
18 Lane. Camp Cruffy(sic) or something like that.

19 Q. I think you're right. Correct.

20 Then you have spills listed for
21 2005. It doesn't give the breakdown of rain
22 events or number of spills on this chart again,
23 but it has Saddle River Road, South Monsey,
24 754 Saddle River Road. They give a reason, heavy
25 rain. We don't know the amount. That was April?

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2 A. That would be in the spill report.

3 Q. Correct. April of '05. The October
4 of '05, again, South Monsey Road, Airmont.

5 And then November 30th it says that
6 there's, again, pump failure or failure of the
7 uninterruptible power supply on November 30th;
8 right?

9 A. Yes.

10 Q. So that's more mechanical failure,
11 not heavy rains?

12 A. Electrical component.

13 Q. So equipment failure?

14 A. Yes.

15 MR. BURKE: Can you mark this,
16 please as 9.

17 (Plaintiffs' Exhibit 9, Spills 2007
18 File, was marked for identification.)

19 Q. I show you what's been marked as
20 Plaintiffs' Exhibit 9.

21 (Document submitted.)

22 Q. I'm going to ask you to turn to 117
23 and 118 Bates Stamp Number.

24 This, again, is talking about a
25 sewer overflow on December 23rd, 2007 in the

1 Dianne Philipps
2 vicinity of the Saddle River Swim Club?

3 A. Yes.

4 Q. It says that they estimated 800
5 gallon overflow?

6 A. Yes.

7 Q. Talks about excessive rag and debris
8 buildup in both the operable pumps, caused one to
9 fail. This is next paragraph.

10 A. Yes.

11 Q. And the other pump at reduced
12 capacity.

13 Now, again, rags and debris, rags,
14 was what we talked about before. That's what you
15 would refer to as toilet paper and other products
16 that go through your system?

17 A. Right. They just kind of gel up
18 into something that looks like rags.

19 MR. BURKE: Off the record.

20 (Whereupon, there was a discussion
21 held off the record.)

22 Q. When those rags buildup, that could
23 cause blockage if there's other debris, sticks
24 and everything else that --

25 A. They have a tendency to form balls

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2 inside the pumps on the impellers. They also
3 have a tendency to get in between the impeller
4 and, you know, in between the wear rings, causing
5 it to not be able to turn as well or causing it
6 to go out on either vibration or excessive
7 current, because it impedes the flow or it could
8 keep the impeller from -- just makes it difficult
9 for the pumps to turn.

10 Q. Because of the buildup of these
11 rags?

12 A. Yes.

13 Q. Is that what happened here that
14 caused the failure? It says, excessive rag and
15 debris buildup in both operable pumps caused one
16 to fail and the other at a reduced capacity.

17 A. Reduced capacity, yes.

18 Q. Does that mean that the third pump,
19 the backup pump, would have kicked in, or does it
20 say anything as to that?

21 A. Well, it says, appears that the
22 temporary backup pumps were available to pump
23 down the wet well.

24 Q. It doesn't say that they turned on?

25 A. It may have.

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Q. And it says during dry periods as the area's experienced over recent weeks, rags and debris tend to settle within the collection system?

A. Yes.

Q. It means along the pipelines that they would just settle, and then when the levels increase, that they move along the system; is that what that means?

A. Well, during dry periods, the periods of low flow some of lines might not have enough velocity to carry the solids and then you'd get more flow and it just kind of flushes the system out.

Q. Okay. Which would bring an increase of these setttable solids down to the pump station; --

A. Yes.

Q. -- right?

A. Yes.

Q. So during dry periods do you flush out the system to prevent that from happening?

A. There are some places that we flush. We certainly can't flush the entire system.

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2 Pump Station pumps down to the Saddle River;
3 right?

4 A. No. The Saddle River station
5 pumps --

6 Q. Pumps up to Twin Lakes?

7 A. -- to the Twin Lakes Pump Station.
8 Twin Lakes Pump Station pumps to the Ramapo
9 Interceptor.

10 Q. The two interceptors that comes
11 down from Saddle River are both gravity?

12 A. Yes.

13 Q. All right. Back to we're looking at
14 spills from 2007 and on 118, the second to last
15 paragraph Page 118 begins with the word, as...
16 again, indicates that a small quantity of the
17 overflow ponded and a portion flowed to the
18 Saddle River.

19 So, again, as a result of this spill
20 on December 23rd, 2007 your report indicates that
21 a quantity of that flowed into the Saddle River?

22 A. Yes.

23 Q. 119 is a letter from you to Manju,
24 M-A-N-J-U, Cherian, C-H-E-R-I-A-N, of the New
25 York State DEC. And you are, in essence, in this

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2 letter asking to invoke the force majeure clause
3 of the -- did I pronounce that correctly? I
4 think I did; correct?

5 A. Correct.

6 Q. And that's kind of like an act of
7 God clause; correct; if you know?

8 What would you describe that clause
9 to be in the Consent Decree?

10 A. I'm -- I'm not sure.

11 Q. Okay. Is it a clause basically, I
12 don't want to call it an escape clause, but to
13 say, well, because of a storm that was excessive,
14 we were unable to abide by the Consent Decree;
15 correct?

16 A. Based on the following paragraphs, I
17 would say yes.

18 Q. All right. And then basically what
19 you say, it's the worst flooding since Tropical
20 Storm Floyd, and you talk about the extreme
21 rainfall, that you received six to seven inches;
22 right?

23 A. Yes.

24 Q. So, in essence, you're requesting
25 that the DEC allow you to rely on a clause that's

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contained in the Consent Decree if there is excessive rainfall; correct, and if they grant that?

A. Repeat that again.

MR. BURKE: Okay. Let me rephrase it.

Q. You're asking for the DEC to trigger a clause in the Consent Decree which would excuse the overflows because of excessive rain; correct?

A. Yes.

Q. Do you know if the DEC granted that request?

A. They didn't issue any violations. I -- I don't know -- I don't believe we got anything in writing from them in response to this.

Q. Do you think if they didn't grant it, they would issue violations?

A. I would think so.

Q. Do you know if the other spills that we mentioned before this, in '06 and '07, where you didn't ask for relief from those spills, if the DEC issued violations?

A. They did not issue violations.

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2 Q. So for all those other spills there
3 were no violations after the Consent Decree
4 Order, until now, when you first asked for this
5 relief; right?

6 A. Correct.

7 Q. Do you know if the DEC has issued
8 any violations for spills after you entered into
9 the Consent Decree?

10 A. I'm not aware of any.

11 Q. And isn't it fair to say that spills
12 have continued to occur after entering the
13 Consent Decree that did not result in violations
14 from the DEC?

15 A. Yes.

16 Q. And isn't it fair to say that spills
17 that occurred after the Consent Decree was
18 entered into, were in violation of your SPDES
19 permit?

20 A. Yes.

21 Q. Okay. The next page Bates Stamp
22 120. This is the rain event that you were asking
23 for that relief under the Consent Decree. And it
24 lists the Saddle River, Hillside Avenue in
25 Airmont as one of the locations where spills

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2 occurred; correct?

3 A. That might be two locations.

4 Q. Okay. The Saddle River Road and
5 then Hillside Avenue?

6 A. Both in Airmont.

7 Q. Okay. So these appear to be broken
8 down by location. West Nyack they list a number
9 of them; right?

10 A. Yes.

11 Q. Then Spring Valley they list a
12 number of them? And then in Airmont they list
13 Saddle River Road, Hillside Avenue. And then New
14 City they list some. And then, again, at the end
15 it says, Route 303 in Orangeburg it lists one.

16 A. Right.

17 Q. All right. Now, let's go down to
18 the paragraph that deals with -- okay. If we
19 look at the second to last paragraph on page
20 Bates Number 120. Actually, it's the paragraph
21 starting above that where it says, storm watch
22 crews performing pump station inspections found
23 the Saddle River Station off-line at
24 approximately 2:30 a.m. And it says,
25 Manholes 10172 and 74 were overflowing.

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2 Those are the manholes we saw
3 depicted in Plaintiffs' Exhibit 3; right, down by
4 the Swim Club?

5 A. Repeat that again.

6 Q. I'm sorry. I'm just trying to
7 coordinate. The manholes listed are referenced
8 in Bates Stamp Number 120, which is Manhole 10172
9 and 10174, are the manholes that are depicted in
10 Plaintiffs' Exhibit 5; right?

11 A. One of the two manholes is.

12 Q. Okay. The other one's in the
13 parking lot?

14 A. Yes.

15 Q. We don't know if this is 72 or 74;
16 do we, or do you?

17 A. Guessing that one would be 74, but
18 I'm not sure.

19 Q. Okay. It says that the pumps were
20 reset. However, the inflow to this station was
21 greater than the station's capacity and
22 overflows continued.

23 A. Yes.

24 Q. It says, as has been noted in
25 previous memorandum, this pump station is not

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2 running at 100 percent capacity.

3 What does that mean?

4 A. Possibly the impellers are worn.

5 The wearings are worn or the pump is worn, and
6 that's why -- you know, follows that we were
7 under recently entered into the contract to
8 replace them.

9 Q. And that was the -- the replacement
10 was completed in 2009?

11 A. I believe so.

12 Q. Okay. So from the time that the
13 Consent Decree was entered into in 2006 until
14 when the pumps were replaced in 2009?

15 A. Those pumps may have been replaced
16 in 2008. I'd like to check that, 'cause this
17 letter was in 2007. If we were already under
18 contract, they were probably done in 2008.

19 Q. Well, at least there was a two-year
20 period, approximately a two-year period, where
21 they were not operating at 100 percent capacity.

22 Do you know when --

23 A. Well, I'm not --

24 Q. -- it was first determined that they
25 weren't operating at 100 percent capacity?

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2 A. I'm not sure when that was first
3 determined.

4 Q. Okay. So it could have even been
5 longer than that two-year period?

6 A. It may or may not have been.

7 Q. It says, in that same paragraph, it
8 says, the overflow diminished and subsided at
9 approximately 4:00 a.m. on 4/17.

10 So that's more than 24 hours; right?

11 A. Yes.

12 Q. It says, the overflow ponded in the
13 area and drained into the Saddle River. An
14 estimated 390,000 gallons of dilute sewage may
15 have been released during the overflow; correct?

16 A. Yes.

17 Q. And that's an estimate based upon
18 the Sewer District's investigation?

19 A. Yes.

20 Q. Then you talk about equipment
21 failure. The failure of the telemetry system to
22 report mechanical problems that this pump station
23 was identified --

24 A. Yes, it --

25 Q. -- the telephone line?

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2 A. Right. Well, it -- yes. Well, it
3 mentioned, you know, the pumps were off-line. We
4 should have gotten an alarm. And we didn't get
5 an alarm due to the problem with the telephone
6 line.

7 Q. So an alarm signal would be sent
8 whenever there's an overflow?

9 A. Whenever there's any kind of
10 mechanical problem, we -- we monitor the levels
11 in the wet wells. So once if they were to reach
12 a hot -- reach a high wet well level alarm, we
13 would get an alarm.

14 Q. Knowing that this was a problem
15 location or problematic location, do you know if
16 anything was done prior to this heavy rain event
17 to attempt to alleviate potential overflows
18 before the rain event occurred?

19 A. Typically they would clean out pumps
20 of -- of all of our pump stations where we had
21 problem with rags, they go and clean out all the
22 pumps. We did have storm watch crews. We had
23 people work around the clock. And we do have
24 people around the clock during a rain event.
25 They typically make it a point to stop at Saddle

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2 River, Twin Lakes, Cherry Lane, Pine Brook, you
3 know, on a regular basis. We just kind of assign
4 someone to handle that part of the County, all
5 those pump stations.

6 We put another crew at the northern
7 end of the County to cover those pump stations.

8 Q. Do you know if anyone ever inspected
9 the telemetry system that's --

10 A. Well, typically, even if --

11 Q. Even if the system is not
12 functioning, can't -- if you have storm watch
13 crews, when they're stopping in, can't they
14 determine whether there's been a mechanical
15 failure or not, you don't need to be notified;
16 right?

17 A. Well, telephone lines failing, we're
18 not gonna get an alarm on that. If the telemetry
19 system -- this -- we recently replaced our SCADA
20 system, our telemetry system. We have a new
21 system. And we don't use telephone lines
22 anymore. We use Cablevision. We pay a lot for
23 Cablevision. We don't get HBO.

24 Q. That's funny. But here it indicates
25 at least that they're blaming the failures on the

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2 telemetry system to report the mechanical
3 problems.

4 But my question being if there's
5 storm watch crews out there, you don't need to
6 rely on the notification from the telemetry
7 system?

8 A. Correct. They were there at 2:30.
9 They could have -- I can look -- well, I probably
10 can't now, but they were probably at that
11 station, maybe visiting that station every half
12 hour, and when they got there at 2:30 they found
13 the problem.

14 Q. Okay. And the next paragraph it
15 says that they were at the Hillside Airmont at
16 11:30 p.m. on the 15th, and there was an overflow
17 there, and that spill was 12,000 gallons, and
18 that flowed into the Saddle River, as well.

19 So the day before, 12,000, the next
20 day 390,000 from two different locations?

21 A. Yes.

22 Q. And then also in Airmont,
23 Manhole 10019, South Monsey Road, there was an
24 overflow going on there as well?

25 A. Yes.

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2 Q. And that was, it says, overflows
3 from that location became intermittent as flows
4 decreased and pumps cycled on and off. It says,
5 from that area another 100,000 gallons as a
6 result of the flow meter data and direct
7 observation?

8 A. Yes.

9 Q. And that would have flowed again
10 into the Saddle River?

11 A. Well, into a tributary of the Saddle
12 River.

13 Q. Which connects into the Saddle
14 River; right?

15 A. Yes.

16 Q. And so all told, over a half a
17 million gallons of dilute sewage into the Saddle
18 River or a tributary of the Saddle River?

19 A. Yes.

20 Q. On the bottom of this notification
21 it lists who you notify?

22 A. Yes.

23 Q. It doesn't list New Jersey DEP; does
24 it?

25 A. No, it does not.

1 Dianne Philipps

2 Q. So it's got the Department of
3 Health. You left a message, it says. The DEC
4 and United Water; right?

5 A. Yes.

6 Q. It's also got an indication that it
7 goes into a file for spills and reader.

8 What's the reader file?

9 A. I think everything goes to reader.

10 Q. Okay. What's --

11 A. I'd have to ask my administrative
12 secretary. It's just something like things --

13 Q. Like a --

14 A. Some kind of a backup file, I'm
15 assuming.

16 Q. All right. That's electronic?

17 A. No.

18 Q. That's not a physical?

19 A. It's physical.

20 Q. Physical document file?

21 A. Yes.

22 Q. In the second to last paragraph of
23 this report it says, spills were also reported to
24 the District from lines that, upon further review
25 and investigation, are not the responsibility of

1 Dianne Philipps
2 the District. These include reported spills on
3 Ramapo Lane, Airmont and Cottage Place, Nanuet.

4 Do you know whose responsibility
5 those locations would be?

6 A. Ramapo Lane would be the
7 responsibility of Ramapo. And Cottage Lane --
8 Cottage Place would be the responsibility of Town
9 of Clarkstown.

10 Q. Okay. So Ramapo Lane and Airmont
11 Road are Town of Ramapo?

12 A. Yes.

13 Q. Because that's where the
14 eight-inch4k --

15 A. That would have been from the
16 eight-inch line.

17 Q. Okay. On Bates Stamp 127, I think
18 that's the same report.

19 A. It's the same report.

20 Q. Okay. Let me just take a step back
21 to the one we were just looking at. On Page 2 of
22 that document it also talks about other water
23 ways that were affected as a result of overflows.

24 The third paragraph down says
25 270,000 gallons flowed into tributaries of the

1 Dianne Philipps

2 Pascack Brook?

3 A. Yes.

4 Q. And the next paragraph says, another
5 385,000 gallons of dilute sewage flowed into the
6 Pascack Brook; right?

7 A. Yes.

8 Q. And that's the location that or at
9 least I've previously mentioned next to the BMW
10 dealership, on Route 59?

11 A. Yes.

12 Q. So to refresh your recollection,
13 that tributary would be a tributary to the
14 Pascack Brook?

15 A. Yes.

16 Q. I think it actually says which
17 flows... yes. You can't tell the way it's
18 written whether it's a tributary --

19 A. Right.

20 Q. -- or...

21 And on the last page there's
22 another, it's the fourth paragraph from the
23 bottom, another 215,000 flowed into the Sparkhill
24 Creek --

25 A. Yes.

1 Dianne Philipps

2 Q. -- or a tributary of the Sparkhill
3 Creek.

4 The Bates Stamp Number 130 is a
5 spill at the Twin Lakes Pump Station,
6 November 28, 2007?

7 A. Yes.

8 Q. It says that there was an overflow
9 of approximately 3,000 gallons.

10 And this was a dry weather event?

11 A. Yes.

12 Q. And this dry weather event, if you
13 look at the last paragraph on the second page,
14 indicates that the overflow drained into a
15 tributary of the Saddle River?

16 A. Yes.

17 Q. And, again, with a dry weather event
18 it's more than likely high concentration of those
19 gallons that are reflected as a result of the
20 spill?

21 A. Yes.

22 Q. Bates Stamp Number 135, this is
23 another sewer overflow?

24 A. Yes.

25 Q. And, again, this is another dry

1 Dianne Philipps

2 weather event on October 12, 2007?

3 A. Yes.

4 Q. And that's, again, it says in the
5 vicinity -- this overflow in the vicinity of
6 Saddle River Swim and Tennis Club?

7 A. Yes.

8 Q. And as a result of this dry weather
9 event on Page 2 they did an estimate of 500 to
10 1,000 gallons. And they said that the overflow
11 ponded nearby and seeped into the ground and
12 flowed into the Saddle River?

13 A. Yes.

14 Q. So, again, as a dry weather event,
15 and 500 to 1,000 gallons, based on your
16 estimates, would have been a higher concentration
17 of sewage and contaminants that would flow into
18 the River?

19 A. Yes.

20 Q. On a spill report next on 137,
21 March 19, 2007?

22 A. Yes.

23 Q. It says, sewage spill from March 2nd
24 of 2007?

25 A. Yes.

1 Dianne Philipps

2 Q. The second paragraph says, repairs
3 were recently completed to the section of the
4 interceptor downstream near South Monsey Road and
5 Christmas Hill Road?

6 A. Yes.

7 Q. That's the manhole next to
8 Mr. Schneider? I think he's actually even
9 mentioned in this report. Yes, Mr. David
10 Schneider reported an overflow there.

11 And I think even, whoever responded,
12 verified that it was an overflow, but a small
13 amount at that manhole, even after the repairs
14 had been done?

15 A. Right. We -- we did one repair. As
16 the result of this we did a second repair.
17 (Indicating.)

18 Q. So the first repair didn't address
19 some of the overflow problems at that manhole?

20 A. Well, it went from -- from being
21 more often and excessive to a trickle that
22 lasted -- what? Not more than two minutes.

23 Q. Where did you put the river siphon?
24 Where was that done?

25 A. What river siphon?

1 Dianne Philipps

2 Q. Did you put in a syphon pump
3 anywhere in this area to address overflows?

4 A. No, we haven't built any syphons
5 lately.

6 Q. Is there something known as a barrel
7 syphon pump?

8 A. Wait. Further down, downstream from
9 there, there are there -- there is a two barrel
10 syphon. We added a third barrel.

11 Q. What is a barrel syphon pump?

12 A. It takes -- typically a sewer flows
13 by gravity downstream. Let's say you want to go
14 under a stream, and it just goes down under and
15 comes back up, and it operates like an inverted
16 syphon.

17 Q. Okay.

18 A. Like if you're siphoning out a pool
19 and it's going this way, you know, you put your
20 hose in and it's coming out that way. This one's
21 going that way. (Indicating.)

22 Q. Underneath the stream?

23 A. Underneath. It could be a stream
24 or -- more than likely a stream.

25 Q. Okay. How many barrel syphon pumps

1 Dianne Philipps

2 are --

3 A. It's not a pump. It's just a pipe.

4 Q. But it's called a barrel siphon
5 pump; isn't it?

6 A. Just a barrel siphon.

7 Q. Okay. A barrel siphon, not a pump.

8 A. Well, this particular one had
9 two barrels, and it had a place for a third
10 barrel, so we put in a third barrel.

11 Q. So more flow could go underneath --

12 A. Yes.

13 Q. -- whatever it was trying to go
14 underneath?

15 A. Yes.

16 Q. Was that because there was blockage
17 in that area that would cause leakage into
18 whatever was above it?

19 A. That would have been to add
20 capacity.

21 Q. How many barrel siphons are employed
22 throughout the Rockland County Sewer District; if
23 you know?

24 A. I'd have to add 'em up. I -- I
25 don't know off the top of my head.

1 Dianne Philipps

2 Q. Well, is there more than ten?

3 A. I -- maybe around ten.

4 Q. Is there a large map of the sewers
5 and interceptors that you maintain at the Sewer
6 District, or copies of those large maps that you
7 maintain?

8 A. Yes.

9 Q. Are they copies that you often have
10 engineers do drawings on, etcetera?

11 A. Yes.

12 Q. Where it has a standard list of all
13 the pipes and connectors?

14 A. Yes.

15 Q. And it looks kind of like a site
16 plan of the maps and connectors and everything
17 else?

18 How big is it? Are talking about a
19 third of this table, perhaps?

20 A. There's a variety of sizes. We
21 have, you know, the overall system. Then we have
22 page by page that shows every single line. Then
23 we also have the computerized version of it. So
24 it could be any size. You could look at whatever
25 detail you want.

1 Dianne Philipps

2 Q. Okay. And a blown up size of that
3 map would list all of the interceptors that are
4 your responsibility, and then the interceptors
5 that are -- or the pipes that are, say, Town of
6 Ramapo's responsibility?

7 A. Yes.

8 Q. And you can tell that just by the
9 size?

10 A. Yes. Well, not 100 percent of the
11 time. There are some eight-inch lines that we do
12 own. There's probably some ten-inch lines that
13 the Town owns. But our maps indicate who has
14 ownership.

15 Q. Okay. Bates Stamp 139, again, talks
16 about some spills on March 19th. It's dated
17 March 19th. Addressing spills on March 2nd;
18 right?

19 A. Yes.

20 Q. Lists Saddle River as one of the
21 locations?

22 A. Yes.

23 Q. Saddle River Road in Airmont?

24 A. Yes.

25 Q. On the third paragraph down on

Dianne Philipps

Page 2 it indicates that 14,000 gallons of sewage may have been released --

A. Yes.

Q. -- from that spill, and that a percentage of that drained into the Saddle River?

A. Yes.

Q. It also lists throughout this memorandum other water bodies, the Hackensack River, that were affected from spills?

A. Yes.

Q. Pascack Brook?

A. Yes.

MR. BURKE: Okay. Why don't we stop there.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT COURT OF NEW YORK

-----x

BOROUGH OF UPPER SADDLE RIVER, NEW JERSEY,
KAREN MILLER, ROY OSTROM, MARIA FLORIO, MARK
RUFFOLO AND LINDA MCDONALD,

Plaintiffs,

- against -

ROCKLAND COUNTY SEWER DISTRICT #1,

Defendant.

-----x

Thursday,

January 13, 2011

10:10 a.m.

CONTINUED EXAMINATION BEFORE TRIAL OF
a Defendant, ROCKLAND COUNTY SEWER
DISTRICT #1, by and through its Witness,
DIANNE PHILIPPS, held at the
offices of Rockland & Orange Reporting,
20 South Main Street, New City, New
York, on the above time and date, before
a Notary Public of the State of New York.

ROCKLAND & ORANGE REPORTING

20 South Main Street

New City, New York 10956

(845) 634-4200

1 A P P E A R A N C E S:

2
3
4
5
6 BURKE, MIELE & GOLDEN, LLP

7 Attorneys for the Plaintiffs

8 40 Matthews Street

9 Suite 209

10 Goshen, New York 10924

11 BY: MICHAEL BURKE, ESQ.

12
13
14
15
16 PANNONE LOPES DEVEREAUX & WEST LLC

17 Attorneys for the Defendant

18 81 Main Street

19 Suite 510

20 White Plains, New York 10601

21 BY: MICHAEL L. CAREY, ESQ.

1 Dianne Philipps
2 asked if the overflows at the manhole on South
3 Monsey was due to a lack of capacity. And I had
4 responded that it was not a capacity problem.

5 At one time the overflows were due
6 to a lack of capacity, and that was due to -- due
7 to lack of capacity at the siphon downstream. We
8 had discussed how that was -- that siphon had two
9 barrels. We added a third barrel to the
10 two-barrel siphon. And then based on our
11 calculations, this should have solved the
12 problem. However, during a rain event we still
13 had a slight overflow. This was due to the two
14 force mains discharging at right angles to each
15 other in a relatively shallow manhole. We
16 redirected one of the force mains to a location
17 further down on the interceptor, and we've not
18 had an SSO at the South Monsey location since.

19 Q. Okay. I'm going to, obviously, ask
20 some follow-up questions as a result of this.

21 MR. CAREY: And then the last item
22 is?

23 MR. BURKE: Okay.

24 A. I became Assistant Director
25 January 4th, 2003.

1 Dianne Philipps

2 Q. Your prior testimony was you became
3 Assistant Director, I thought it was '94; was
4 that --

5 A. I might have said '94.

6 Q. Okay. But it's really 2003?

7 A. Right.

8 Q. All right. So you were an
9 Engineer III from '89 to 2003, when you became
10 the Assistant Director?

11 A. Yes.

12 Q. And then from 2003 to present you
13 are the Executive Director?

14 A. I became the Executive Director
15 in --

16 Q. I'm sorry. I beg your pardon.
17 You became an Assistant Director,
18 2003. Executive Director in 2004, does that
19 sound right, from your prior testimony?

20 A. I believe that's what I said.

21 MR. CAREY: We'll verify the date.

22 Q. I think I have March of 2004 being
23 her prior testimony that you became Executive
24 Director.

25 All right. You said that the new

1 Dianne Philipps
2 pumps were installed at the Saddle River Pump
3 Station.

4 Where did you learn that
5 information? I believe your prior testimony was
6 the new pumps were installed in 2009.

7 A. I went and looked at the -- what did
8 I look at? I can't remember what I looked at. I
9 know I looked through the contract file, and I
10 can't remember if I found it or not.

11 Q. So how do you know that it was
12 completed in 2007?

13 A. I found some documentation in the
14 project files, but I can't remember what it was.
15 I had another pad of notes from things I found in
16 the office, and I had left that in the office. I
17 wasn't in the office yesterday, and I wasn't in
18 the office this morning.

19 ***

20 MR. BURKE: Okay. I'm going to call
21 for production of those notes, as well as
22 the document that you reviewed or
23 documents that you reviewed that now
24 changed your testimony that the pumps were
25 installed in 2007, as opposed to 2009.

1 Dianne Philipps

2 THE WITNESS: Right, it was the end
3 of 2007, beginning of 2008.

4 Q. Who did you contract to do the work
5 to install the new pumps?

6 A. It was Stacy Contracting.

7 Q. Do you know if the pumps were fully
8 installed by the beginning of 2008, as you just
9 testified?

10 A. Yes.

11 Q. They were?

12 A. (The witness nods her head).

13 Q. All three new pumps?

14 A. Yes.

15 Q. And that was now based on your
16 review of documents that the new pumps had been
17 installed and that work was completed, when
18 previously you thought it was 2009; correct?

19 A. Correct.

20 MR. BURKE: I'm going to show you
21 what I ask be marked as Plaintiffs'
22 Exhibit 10.

23 (Plaintiffs' Exhibit 10, e-mail
24 dated March 5, 2008 from Manju Cherian to
25 Wendy Rosenbach, and the subject matter is

1 Dianne Philipps

2 Consent Decree called for replacing the pumps in
3 the Saddle River Pump Station?

4 A. I -- I don't recall. I'd have to
5 check the Consent Order report.

6 Q. And since the replacement of the
7 pumps, whether it be in -- well, let's just use
8 the date now stating it was replaced the end of
9 '07, beginning of '08 that these new pumps were
10 replaced at the pump station in Saddle River,
11 there has continued to be SSOs at the Saddle
12 River Pump Station; isn't that correct?

13 A. Yes.

14 Q. So is it fair to say that replacing
15 those pumps haven't addressed the problem of the
16 SSOs at the Saddle River Pump Station?

17 A. Yes.

18 MR. BURKE: Can you mark this,
19 please.

20 (Plaintiffs' Exhibit 11, Bates Stamp
21 Number 2582 and 2583, letter dated
22 February 11th, 2009 to Ms. Philipps from
23 Jean Occidental, was marked for
24 identification.)

25 Q. I'm going to show you what's been

1 Dianne Philipps

2 Number PLDW-270 through 274, quarterly
3 report for January 1st through March 31st,
4 2008, was marked for identification.)

5 Q. I'm going to show you what's been
6 marked as Plaintiffs' Exhibit 12, and direct your
7 attention to the bottom of Page 4, top of Page 5,
8 this is Bates Stamp Number PLDW-270 through 274.
9 And it is a quarterly report for January 1st
10 through March 31st, 2008.

11 Turn to bottom of Page 4, top of
12 Page 5. And that's a portion of the quarterly
13 report dealing with Saddle River Pump Station;
14 correct?

15 A. Yes. It was Stratis Contracting
16 that installed the new pumps.

17 Q. Okay. And on Page 5 it indicates
18 that the new pumps were installed at the Saddle
19 River Pump Station January of 2008?

20 A. Yes.

21 MR. BURKE: And I show you what I'll
22 ask be marked Plaintiffs' Exhibit 13.

23 (Plaintiffs' Exhibit 13, photos of
24 March 5th, 2008, was marked for
25 identification.)

1 Dianne Philipps

2 A. Yeah, 'cause I had said end of 2007.

3 Q. I show you what's been marked as
4 Plaintiffs' Exhibit 13. Ask you to take a look
5 at it.

6 (Documents submitted.)

7 A. Okay.

8 Q. Those are photos that have been
9 identified of March 5th, 2008, and it depicts, on
10 Page 2 of this, the area of the Saddle River Pump
11 Station, I'm sorry, the area of the Saddle River
12 Swim Club and the manhole running down towards
13 the Saddle River; correct?

14 A. Yes.

15 Q. And, in fact, it shows that manhole
16 cover on the third page of this document?

17 A. Yes.

18 Q. And around the manhole it shows what
19 you've previously described as being rags?

20 A. No, I don't see any rags. Well, I
21 see a little bit. (Indicating). It's possibly
22 rags. I see what looks like maybe left over
23 sewage.

24 Q. Okay. And that's outside of the
25 manhole on the ground there; correct?

1 Dianne Philipps

2 A. Yes.

3 Q. And on the fourth page it's a
4 picture of, again, that manhole from a further
5 back, closer with your back to the River?

6 A. Yes.

7 Q. And it shows a line of looks like
8 debris from the manhole?

9 A. Yes.

10 Q. Which would include sewage, toilet
11 paper, etcetera?

12 A. Possibly.

13 Q. Okay. And this was two months after
14 the -- less than two months after the pumps, the
15 new pumps, were installed; correct?

16 A. Yes.

17 Q. So, obviously, as to this event the
18 pumps didn't -- weren't able to stop this
19 overflow; correct the, new pumps?

20 A. Correct.

21 Well, I would have to review the
22 spill report to see if there was some specific
23 reason that caused that; was it some other
24 failure of something else, or it was just too
25 much rain.

1 Dianne Philipps

2 A. The spill report may have said it,
3 just because we normally list whatever the
4 receiving water body would be in a report.

5 MR. BURKE: Okay. I'm going to show
6 what I ask be marked as Plaintiffs' 14.

7 (Plaintiffs' Exhibit 14, photos of
8 September 6, 2008 and September 7, 2008,
9 was marked for identification.)

10 Q. I show you what's been marked as
11 Plaintiffs' Exhibit 14, ask you to take a look at
12 that.

13 (Documents submitted.)

14 A. Okay.

15 Q. That, again, shows the manholes
16 near -- the manhole near the Saddle River Swim
17 Club?

18 A. Yes.

19 Q. And debris on the ground, which
20 includes toilet paper and other sewage coming
21 from the manhole?

22 A. Yes.

23 Q. And I believe the day indicated, at
24 least on these photos, was from September 7,
25 2008?

1 Dianne Philipps

2 A. Yes.

3 Q. Which, again, was nine months after
4 the pump, the new pumps, were installed by the
5 Rockland County Sewer District?

6 A. Yes.

7 Q. So as to this spill on September of
8 2008, which are depicted in these photos, the new
9 pumps didn't alleviate the problems as to that
10 spill as well?

11 A. I'd have to review the spill
12 reports, see what the cause was.

13 Q. Well, we know there was a spill on
14 September 7, 2008; right, as dictated by these
15 photographs?

16 A. Yes.

17 Q. And we also know that you installed
18 new pumps in January of 2008; right?

19 A. Yes.

20 Q. So the new pumps that were installed
21 in January 2008 didn't prevent this overflow in
22 September of 2008; correct?

23 A. Yes.

24 MR. BURKE: Showing you 35 photos
25 that I ask be marked as Plaintiffs'

1 Dianne Philipps

2 Exhibit 15.

3 (Plaintiffs' Exhibit 15,
4 35 photographs, was marked for
5 identification.)

6 MR. CAREY: Do you want to number
7 the pages?

8 MR. BURKE: Sure. These were
9 previously produced, Michael, as a disk of
10 photos.

11 MR. CAREY: Okay.

12 MR. BURKE: But I'll number them for
13 now.

14 MR. CAREY: Just in case you're
15 making reference.

16 MR. BURKE: That's fine. No, I
17 agree.

18 Q. I'm going to show you what's been
19 marked as Plaintiffs' Exhibit 15, it's 35 photos,
20 and ask you to take a look at that.

21 (Document submitted.)

22 A. Okay. He's retired. (Indicating.)

23 Q. Do you recognize the area that's
24 depicted in Plaintiffs' Exhibit 15, 1 through
25 35?

1 Dianne Philipps

2 A. Yeah, that would be the manhole on
3 South Monsey Road.

4 Q. That's the 10019 manhole that we
5 were discussing earlier, near Mr. Schneider's
6 residence?

7 A. Yes.

8 Q. And this shows an overflow at that
9 location?

10 A. Yes.

11 Q. And these pictures show the overflow
12 at that location. And I think some of the photos
13 have date stamps on the bottom?

14 A. Yes.

15 (Whereupon, there was a recess
16 taken.).

17 Q. Okay. Back to Plaintiffs'
18 Exhibit 15. I think we left off, at least as to
19 Plaintiffs' Exhibit 15 numbered one, there is a
20 time or a date stamp, not a time stamp, but a
21 date stamp on this photo; correct?

22 A. Yes.

23 Q. Looks like it's April 17, 2007?

24 A. Yes.

25 Q. What's been marked as Exhibit 2,

1 Dianne Philipps

2 there's no date stamp, but that's the Saddle
3 River Swim Club manhole?

4 A. Yes.

5 Q. And that's also overflowing at that
6 location?

7 A. Yes.

8 MR. BURKE: Michael, for the record,
9 these photos were printed out from a disk
10 that was previously produced. I have the
11 disk with me, and I can make another copy
12 of this for you, so you can see exact
13 dates of when it was produced and compare
14 it to what's being shown on the witness.

15 MR. CAREY: Okay.

16 Q. I'm going to show you what's been
17 marked as Plaintiffs' Exhibit 15, page number 13.
18 And that is also, again, appears to be the
19 Manhole 10019; --

20 A. Yes.

21 Q. -- correct?

22 A. Yes.

23 Q. And that's overflowing at that
24 location?

25 A. Yes.

1 Dianne Philipps

2 Q. And, in fact, it's a pretty -- well,
3 how would you describe that overflow there?

4 A. It's not a trickle. It's not --
5 it's not the worst I've seen.

6 Q. Okay. Well, how would you describe
7 it then?

8 A. Well, it would depend if it was like
9 that continuous or intermittent. It's...

10 Q. Okay. If it was like that for a
11 couple of days, how many gallons would you
12 estimate had been discharged from that location?

13 A. I'd have to review the chart that we
14 use, and I -- I would think that that one
15 wouldn't be overflowing at that rate for a couple
16 of days. It typically would not happen.

17 Q. Okay. Well, I'm showing you what's
18 marked as Plaintiffs' Exhibit 15, number 14, and
19 that's also a photo of the same manhole?

20 A. Yes.

21 Q. And that's the day prior to Page 13,
22 at least from the date stamp?

23 A. Yes.

24 Q. And it shows that it's overflowing
25 at a pretty good rate on April 16th; correct?

1 Dianne Philipps

2 A. Yes.

3 Q. Now, when you were looking at these
4 photos initially, you indicated that the person
5 who is shown in photo 15 is no longer employed
6 with the Sewer District?

7 A. Yeah, he -- he retired.

8 Q. What's his name?

9 A. Tommy Taylor.

10 Q. How long was he with the Sewer
11 District?

12 A. Probably about 35 years.

13 Q. How about photo 18, there's another
14 gentleman along with Mr. Taylor in that photo, do
15 you know who that is?

16 A. No, I do not.

17 Q. Okay. Photograph 20 on Plaintiffs'
18 Exhibit 15, is that a Rockland County Sewer
19 District truck?

20 A. Yes.

21 Q. Again, as you sit here today you
22 don't know if the third barrel siphon was
23 installed at the time of this overflow; do you?

24 A. I would have to review the file.

25 Q. So you don't know as you sit here

1 Dianne Philipps

2 today?

3 A. I don't know. I could probably call
4 my office and have someone look that up.

5 Q. That's okay. Thank you.

6 MR. BURKE: Can you mark this,
7 please.

8 (Plaintiffs' Exhibit 16, Spills 2008
9 File, was marked for identification.)

10 Q. I'm going to show you what's been
11 marked as Plaintiffs' Exhibit 16. And the first
12 Bates Stamp Number is PLDW 171 through 201
13 consecutively. It indicates they're spill
14 reports or it just says, spills 2008 file. This
15 was produced by your Counsel in discovery of this
16 matter.

17 I'm going to direct you to specific
18 reports contained in here. Ask if you could turn
19 first to Bates Stamp Number 175.

20 A. Okay.

21 Q. This a spill report for March 5,
22 2008 from the Saddle River Swim Club; correct, or
23 the Saddle River Pump Station?

24 A. Correct.

25 Q. And that was the March 5, 2008,

1 Dianne Philipps

2 which I believe we saw in Plaintiffs' Exhibit 13,
3 photos?

4 A. Yes.

5 Q. Now, in looking at this spill
6 report, in the first paragraph it says, when the
7 Sewer District employees responded to the pump
8 station, they found two of the duty pumps faulted
9 and off-line and a temporary pump not operating.

10 A. Yes.

11 Q. And these were the new pumps that
12 were installed less than two months prior?

13 A. Yes.

14 Q. So as to the spill report, it
15 indicates that this spill was caused by equipment
16 failure?

17 A. Yes.

18 Q. And it also appears in Paragraph 2
19 that it may have been human error, because the
20 vibration sensors were set below normal set
21 points?

22 A. Yes.

23 Q. And it also talks about possible
24 maintenance issues that rags and debris built up,
25 causing the pump to fail?

1 Dianne Philipps

2 A. Yes.

3 Q. In this spill report it estimates
4 that 3,000 gallons of sewage overflowed during
5 that event?

6 A. Yes.

7 Q. And then on the second page -- I'm
8 sorry. One moment. It says on Paragraph 3 that
9 the pumps were tested 24 hours prior to that
10 event, and they operated properly?

11 A. Yes.

12 Q. The last paragraph indicates that
13 the sewage overflowed into the Saddle River;
14 correct?

15 A. Yes.

16 Q. I'd ask you to look at Bates Stamp
17 181 and 182.

18 A. Okay.

19 Q. And this is a spill report for a
20 spill on February 13, 2008?

21 A. Yes.

22 Q. And the affected area is Strawtown
23 Road, Jeffery Court, Old Mill Road, West Street,
24 West Nyack Road in West Nyack; right?

25 A. Yes.

1 Dianne Philipps

2 Q. Route 59, North Pascack Road in
3 Spring Valley?

4 A. Yes.

5 Q. And Route 303 in Orangeburg; right?

6 A. Yes.

7 Q. Bates stamp 182 of this report, the
8 first paragraph it indicates that 57,000 gallons
9 of sewage from that spill flowed into the Pascack
10 Brook?

11 A. Yes.

12 Q. In the next paragraph, 21,000
13 gallons of sewage flowed into the tributary of
14 the Sparkhill Creek?

15 A. Yes.

16 Q. And, in fact, the last paragraph of
17 this report says, the magnitude of overflows
18 during this rain event, multiple spill
19 identification numbers were obtained; correct?

20 A. Yes.

21 Q. I'm going to direct your attention
22 to Bates Stamp Number 187 and 188.

23 A. Yes.

24 Q. That's a spill report dated May 29,
25 2008 from Gene Yetter to you; correct?

1 Dianne Philipps

2 A. Correct.

3 Q. And it says, the spill is a sewage
4 spill on May 28, 2008; right?

5 A. Yes.

6 Q. Hillside Road in Airmont?

7 A. Yes.

8 Q. This talks about an overflow at the
9 Cherry Lane Pump Station; right?

10 A. It wasn't at the Cherry Lane Pump
11 Station.

12 Q. It was downstream?

13 A. It was where the force main
14 discharges.

15 Q. And where does the force main
16 discharge?

17 A. Let me -- on Hillside Avenue. On
18 Hillside. Hillside Road or Avenue, whatever it
19 is.

20 Q. And that's closer to the two
21 branches of the Saddle River, like we talked
22 about the other day; if you know?

23 A. It was at the -- the eastern end of
24 Hillside Road.

25 Q. Closer to the top of Cherry Lane?

1 Dianne Philipps

2 Perhaps we could look at the map.

3 MR. BURKE: And we'll mark this as
4 Plaintiffs' Exhibit 17.

5 Q. Does it have streets, or no?

6 A. Here's Cherry Lane. I believe this
7 is Hillside Avenue.

8 Q. Okay. We're going to have this
9 marked as Plaintiffs' Exhibit 17, and you're
10 indicating there's two reddish rectangles, which
11 I think are pump stations; right?

12 A. Correct.

13 Q. You have the Cherry Lane Pump
14 Station, and that's identified as Cherry Lane.
15 And then you have Saddle River I think
16 identifying the town; correct?

17 A. Saddle River is identifying the
18 Saddle River Pump Station.

19 Q. I'm sorry. I beg your pardon.
20 That's the Saddle River Pump Station.

21 Further down is the Pine Brook Pump
22 Station?

23 A. Yes.

24 Q. Okay. I'm just going to have it
25 marked for now, so we know what we're

1 Dianne Philipps
2 referencing.

3 (Plaintiffs' Exhibit 17, Map, was
4 marked for identification.)

5 Q. Plaintiffs' Exhibit 17, can you
6 identify where further down, it says downstream,
7 that the overflow occurred as a result of the
8 spill on May 28, 2008 on Hillside Road in
9 Airmont?

10 A. This map doesn't exactly show where
11 the force main is located, how far it goes down
12 Hillside Avenue, but it comes down Hillside
13 Avenue and at some point the force main stops and
14 it goes to gravity, and it's in that gravity
15 section on Hillside is where this spill occurred.

16 Q. Okay. Do you know if that's near
17 the Saddle River, the West Branch of the Saddle
18 River?

19 A. I'm not sure which branch of the
20 Saddle River, but I would assume that any -- any
21 spill in that area it would go to a tributary to
22 the Saddle River.

23 Q. Okay. And we know that there is a
24 branch of the Saddle River near the Saddle River
25 Pump Station --

1 Dianne Philipps

2 A. Yes.

3 Q. -- as seen by the prior photos and
4 reports; correct?

5 A. Yes.

6 Q. Can you identify where on this map
7 the Manhole 10019 is?

8 A. (Indicating).

9 Q. And if we could just have you mark
10 that. Does it actually have a marking?

11 A. This -- this doesn't show the
12 manholes, but this is the -- this is the
13 beginning of the Ramapo interceptor. You have
14 the force main from the Tallman Pump Station and
15 the force main from the Twin Lakes Pump Station
16 discharging at this point.

17 Q. Okay. So if we can just have you
18 mark with an "X", and I guess we can draw a line
19 down and write Manhole 10019 and put your
20 initials next to it.

21 A. Would a circle be easier to see?

22 Q. Yes, a circle is fine, because it is
23 a manhole cover, I guess.

24 A. What's the number?

25 Q. 10019.

1 Dianne Philipps

2 A. (The witness complied.)

3 Q. And I'm just going to ask if you
4 could put your initials, and today's date is the
5 13th.

6 A. (The witness complies.)

7 Q. Thank you.

8 Now, that's where the Ramapo
9 interceptor begins; correct, where we just
10 marked, --

11 A. Correct.

12 Q. -- Manhole 10019?

13 A. Correct.

14 Q. You indicated that the Twin Lakes
15 Pump Station pumps to that point where the Ramapo
16 interceptor begins; correct?

17 A. Yes.

18 Q. And the Saddle River Pump Station
19 pumps up to the Twin Lakes Pump Station, it's a
20 force main?

21 A. Yes.

22 Q. Does the Saddle River Pump Station
23 also pump to the Pine Brook Pump Station?

24 A. No.

25 Q. Why not?

1 Dianne Philipps

2 A. Pine Brook pumps to Saddle River.

3 Q. Okay. So Pine Brook to Saddle
4 River, Saddle River to Cherry -- I'm sorry, not
5 Cherry Lane, Twin Lakes, Twin Lakes to the Ramapo
6 Interceptor?

7 A. Yes.

8 Q. All right. What pumps into Pine
9 Brooks Pump Station?

10 A. Nothing. It's all gravity flow.

11 Q. Where does that gravity flow come
12 from?

13 A. This looks like it represents the
14 interceptor, so it would be -- I -- I'd have to
15 look at a map, but it's probably this area in
16 here. (Indicating.)

17 Q. And you're indicating the area north
18 of the Pine Brook Pump Station, south of
19 Hillcrest?

20 A. South of -- I would say south of 59,
21 Route 59.

22 Q. Okay.

23 A. Probably even south of the Thruway.
24 Well, actually, no. South of 59.

25 Q. Do you know what area that is?

1 Dianne Philipps

2 A. I'm not sure. Maybe south of Spring
3 Valley. I'm not sure what this area is. I have
4 to look at a map. I'm not sure if that's Airmont
5 in that area or not. Airmont's more over here.
6 (Indicating).

7 Q. Okay. So south of Spring Valley,
8 would that be like the Monsey area?

9 A. I -- I don't think Monsey drains
10 into Pine Brook.

11 Q. Where does Monsey drain into?

12 A. Well, we have something called the
13 Monsey Heights Interceptor here. (Indicating.)

14 Q. You're indicating?

15 A. And that would be going into the
16 Ramapo Interceptor.

17 Q. At the same point of where --

18 A. No.

19 Q. Just above the Manhole 10019?

20 A. It's farther downstream.

21 Q. Okay. Now, we know, from looking
22 at past spill reports, that when the Twin Lakes
23 Pump Station fails or overflows, it spills into
24 the Saddle River as well; correct?

25 A. A tributary to the Saddle River.

1 Dianne Philipps

2 Q. When the Pine Brook overflows, is
3 there a water body near there as well?

4 A. Yes.

5 Q. What water body?

6 A. I'd have to look at a map.

7 Q. Okay. Do you know if it's also a
8 tributary to the Saddle River?

9 A. Probably.

10 Q. Okay. I'm going to show you, back
11 to the spill reports, Bates Stamp Number 191.

12 A. Yes.

13 Q. Ask you to take a look at that.

14 A. Yes.

15 Q. That's a spill on November 18, 2008?

16 A. I believe it says November 15, 2008.

17 Q. Okay. The report's dated
18 November 18, 2008; correct?

19 A. Yes.

20 Q. And it's, again, from Gene Yetter to
21 you?

22 A. Yes.

23 Q. This is a spill at Cherry Lane.
24 It's listed as Sewage Spill Number 152008 Cherry
25 Lane, Airmont; right?

1 Dianne Philipps

2 A. Yes.

3 Q. And, again, it says that that spill
4 was caused because the pumps at the Cherry Lane
5 station were inoperable?

6 A. What was the question again?

7 Q. That spill is attributed to the
8 pumps being inoperable?

9 A. Yes.

10 Q. And that some 50 gallons of sewage
11 spilled as a result of that?

12 A. Actually, it doesn't say that the
13 pumps were inoperable. They weren't operating,
14 but it was due to a component in the control
15 system wasn't operable.

16 Q. Okay. I'm just looking at the first
17 sentence of the report. It says, while
18 responding to a high wet level alarm, an --

19 A. Okay. Found the pumps not
20 operating, correct.

21 Q. -- found inoperable pumps at the
22 Cherry Lane Pump Station.

23 So this report indicates that the
24 operator found that the pumps weren't operable;
25 correct?

1 Dianne Philipps

2 A. Correct.

3 Q. Okay. Bates Stamp Number 195.

4 A. Yes.

5 Q. This is a spill from a sewage spill
6 from the Grandview Pump Station, October 5, 2008?

7 A. Yes.

8 Q. And it says that the inspection the
9 employer found that the pump station was without
10 power and the pumps would not operate in
11 automatic mode. There was no power to the pump
12 control panel. This is in the first paragraph.
13 I'm sorry.

14 A. Right, without power to the pump
15 control panel.

16 Q. So this was, again, equipment
17 failure that resulted in a sewage overflow?

18 A. What was the question again?

19 Q. I said that this spill was
20 attributable to equipment failure?

21 A. Yes, a new UPS had apparently
22 failed.

23 Q. Okay. So when there was a power
24 failure the backup system that would bypass it
25 didn't operate; correct?

1 Dianne Philipps

2 A. Yes, there was a -- the internal UPS
3 circuitry should have bypassed, but it didn't.

4 Q. So there was 23,000 gallons of
5 sewage that overflowed as a result of that --

6 A. Yes.

7 Q. -- equipment failure?

8 A. Yes.

9 Q. Does it say if there was an affected
10 water body? I think actually --

11 A. Yes, tributary to the Mahwah River.

12 Q. Which is the Willow Tree Brook;
13 correct?

14 A. Yes.

15 Q. And the Mahwah River, obviously,
16 flows down into Mahwah, New Jersey; right?

17 A. It flows to the Ramapo River.

18 Q. Which then flows into New Jersey?

19 A. Yes.

20 Q. And on the identification -- on the
21 report it doesn't indicate that the New Jersey
22 DEP was notified on this spill; was it?

23 A. No.

24 Q. I'm going to ask you to turn to 197.

25 A. Yes.

1 Dianne Philipps

2 Q. And that's a report dated
3 September 22nd, 2008 regarding sewage spills from
4 September 6th and 7th, 2008?

5 A. Yes.

6 Q. Okay. And I think that that's also
7 where we saw photos on Plaintiffs' Exhibit 14?

8 A. Yes.

9 Q. And in this spill report it talks
10 about a large rain event as a result of Tropical
11 Storm Hannah?

12 A. Yes.

13 Q. Which caused, as it indicates in the
14 report, multiple overflows; right?

15 A. Yes.

16 Q. No where in this report are you
17 seeking, or is anyone seeking, relief under the
18 force majeure clause of the Consent Decree;
19 right?

20 A. There's no indication in the report.
21 And there wouldn't be an indication on this
22 report.

23 Q. Okay. Do you know if you sought any
24 relief from the DEC for these spills, for this
25 spill, under the force majeure clause of the

1 Dianne Philipps

2 Consent Decree?

3 A. I don't recall.

4 Q. If you look at the last paragraph on
5 Page 1, in that last paragraph it talks about
6 pump failure --

7 A. Yes.

8 Q. -- at the Saddle River Pump Station?

9 A. Yes.

10 Q. And, again, this is September of
11 2008, some seven months after the new pumps were
12 installed?

13 A. Yes.

14 Q. Okay. So the new pumps that were
15 installed in January of 2008 failed in this
16 event?

17 A. Well, failed due to rags, which can
18 happen in a brand new pump, an old pump, any
19 pump.

20 Q. And the rags buildup could be as a
21 result of failure to maintain?

22 A. We have bar racks ahead of the pumps
23 to collect rags. They're manually cleaned.
24 During events, such as this, we have people out
25 there trying to keep the rags out of the system

1 Dianne Philipps
2 as much as possible, but it's impossible to keep
3 them all out.

4 Q. So my question being is that the
5 rags could buildup as a result of failure to
6 maintain, which then would lead to pump failure,
7 so if it's failing to maintain and cleaning the
8 rags, that would be --

9 A. It would be im -- it would be
10 impossible to clean them continuously.

11 Q. I'm not asking about continuing --

12 A. Okay. Well, --

13 Q. -- continuous cleaning.

14 What I'm asking is that it indicates
15 in this report that the cause was the buildup of
16 rags that caused the pumps to fail; right?

17 A. It doesn't take much rags. It could
18 be a small amount. (Indicating).

19 Q. Okay. But that's what caused these
20 pumps to fail?

21 A. Yes, rags caused the pumps to fail
22 temporarily.

23 Q. And as a result of the pump failure,
24 an estimated 15,000 gallons overflowed into the
25 Saddle River, if you look at the last sentence?

1 Dianne Philipps

2 A. Yes.

3 Q. And that's what the report
4 indicates?

5 A. Yes.

6 Q. If you look at the first paragraph
7 on Page 2, it talks about the heavy rain acting
8 as a flush in the collection system.

9 A. Yes.

10 Q. So that, in essence, the heavy rain
11 flushed all of the buildup of the rags from
12 further up the line?

13 A. Yes.

14 Q. All right. Now, you indicated that
15 you occasionally flush the lines; right?

16 A. We flush known problem areas where
17 there's generally grease buildups.

18 Q. Okay. Do you flush known problem
19 areas where there are rag buildups?

20 A. That's throughout the entire system.

21 Q. Well, we know that Saddle River's a
22 known problem area; right, the Saddle River Pump
23 Station?

24 A. What do you mean by the area?

25 Q. All right. Well, the Saddle River